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Claim Rejections Under 35 U.S.C § 101

On page 3 of the Office Action Claims 1-6, 8, 11-14, and 22-24 were rejected under 35 U.S.C § 101 as being directed to non-statutory subject matter. Applicants respectfully traverse the rejection. Applicants direct the Examiner to the recent opinion *Ex parte Lundgren*, Bd. Pat. App. & Int., No. 2003-2088, 10/05, where it was stated that there is no separate technological art test for determining whether a claimed process amounts to statutory subject matter under Section 101 of the patent code. The claimed present invention is proper subject matter under 35 U.S.C § 101.

Claim Rejections Under 35 U.S.C § 103

On page 6 of the Office Action Claims 1-24 were rejected under 35 U.S.C § 103 as being unpatentable over Tealdi in view of Vidali.

The Examiner in the Office Action recites multiple rejections based on speculation and conjecture. With reference to Claims 1, 8-14, 15, 19, 20, 22 and 24, Tealdi and Vidali are silent with respect to providing a loan production team, a loan closing team, partnering with a third party information provider, and concurrently executing tasks by the third party service provider, loan production team, and loan closing team to close the loan. The Examiner on page 7 of the Office Action states that Tealdi does not specifically disclose that the loan production teams and loan closing teams are distinct. Applicants respectfully agree with the Examiner. The two operating teams in the claimed invention allow parallel execution of loan production and closing. The unitary processor of Tealdi, by definition, may only conduct one task at a time. The unitary processor of Tealdi does not and cannot complete the loan production and closing tasks in parallel. The present claimed invention is a streamlined method for processing and closing commercial loans. The method is based on "frontloading" data retrieval and task executions, simultaneously executing required tasks for processing a commercial loan, and/or balancing risk versus the time needed to process a commercial loan. Tealdi and Vidali, singly or in combination, do not teach or suggest the parallel processing of the present claimed invention and/or the separate loan teams.

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With reference to Claims 4, 8, 15, 16, 18, and 23, Tealdi and Vidali are silent with respect to any time limitations in the loan process. Applications reject any official notice regarding time limitations and request the Examiner find support for his assertion in the form of prior art.

With reference to Claims 15, 22, and 24, Tealdi and Vidali are silent with respect to selecting an expedited process based on borrower input. The term "start" is not an expedited loan process as asserted by the Examiner on page 9 of the Office Action. Figure 14 of Tealdi merely represents an Internet link to a home that is for sale. The present claimed invention includes numerous loan processes and selects an expedited process based on borrower input.

The Examiner is practicing improper hindsight reconstruction, as there is no teaching or motivation to suggest the claims of the present invention. Applicants object to any notion that Tealdi and Vidali teach or suggests the present invention and assert that the Examiner's statements are highly speculative and are not supported by prior art. A critical step in analyzing the patentability of claims pursuant to section 103(a) is casting the mind back to the time of the invention to consider the thinking of one of ordinary skill in the art, guided only by the prior art references and the then-accepted wisdom in the field. Close adherence to this methodology is especially important in cases where the very ease with which the invention can be understood may prompt one "to fall victim to the insidious effect of hindsight syndrome wherein that which only the invention taught is used against its teacher." *In Re Kotzab*, 217 F.3d 1365. The Examiner has fallen victim to hindsight reconstruction and has also ignored the elements of the claimed invention and failed to explain how and why the claimed subject matter is rendered unpatentable over the prior art and point out where each of the specific limitations recited in the rejected claims is found in the prior art relied on.

If the Examiner relies on personal knowledge that the apparatus of the present invention is obvious, Applicants respectfully request support for this assertion in the form of an affidavit that shall be subject to contradiction or explanation by the affidavits of the Applicants and other persons under 37 CFR 1.104(d)(2).

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Conclusion

The entire Office Action dated June 15, 2005 has been carefully reviewed, and this response is submitted as being fully responsive thereto. In view of the preceding remarks, Applicants respectfully submit that Claims 1-24 are in condition for allowance and respectfully request such action at the Examiner's earliest convenience. If the Examiner believes that personal contact would be advantageous to the disposition of this case, he is requested to call the undersigned at his earliest convenience.

Please charge any fees which may be due, to Deposit Account No. 07-0960.

Respectfully submitted,



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